



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE



IN REPLY REFER TO:  
FWS-2019-00418

1 Wildlife Drive  
Sanibel, Florida 33957

August 6, 2019

Jimmy Tobias  
MuckRock News  
411A Highland Ave  
Somerville, Massachusetts 02144-2516

Dear Mr. Tobias:

This completes our response to your Freedom of Information Act (FOIA), 5 U.S.C. § 552, request dated February 7, 2019. In your request, you asked for:

- *Any written or electronic communications, including email attachments, text messages, and instant messages, between Assistant Regional Director Leo Miranda and State Supervisor Larry Williams regarding the Eastern Collier Property Owners, LLC, Multi-Species Habitat Conservation Plan and Draft Environmental Impact Statement in Collier County, Florida. This request seeks records produced between January 1, 2018 and the date this request is processed.*

### Response

We have searched our records and have located eight (8) documents (57 pages) that are responsive to your request. After consulting with the Office of the Regional Solicitor, we have determined that some of the information in the remaining documents contain material that is exempt from disclosure under Exemption 6 of the FOIA. We are releasing seven (7) documents (41 pages) in their entirety and one (1) document in part (16 pages).

#### Exemption 6

Exemption 6 allows an agency to withhold “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” [5 U.S.C. § 552\(b\)\(6\)](#).

We are withholding some information in part under Exemption 6.

The phrase “similar files” covers any agency records containing information about a particular individual that can be identified as applying to that individual. To determine whether releasing records containing information about a particular individual would constitute a clearly unwarranted invasion of personal privacy, we are required to balance the privacy interest that would be affected by disclosure against any public interest in the information.

Under the FOIA, the only relevant public interest to consider under the exemption is the extent to which the information sought would shed light on an agency’s performance of its statutory duties or otherwise let citizens ‘know what their government is up to’. The burden is on the requester to establish that disclosure would serve the public interest. When the privacy interest at stake and the public interest in disclosure have

been determined, the two competing interests must be weighed against one another to determine which is the greater result of disclosure: the harm to personal privacy or the benefit to the public. The purposes for which the request for information is made do not impact this balancing test, as a release of information requested under the FOIA constitutes a release to the general public.

The information that has been withheld under Exemption 6 consists of personal information, such as home addresses, personal email addresses, and personal phone numbers. Additionally, we have determined that the individuals to whom this personal information pertains have a substantial privacy interest in withholding such information. Furthermore, you have not provided information that explains a relevant public interest under the FOIA in the disclosure of this personal information and, we have determined that the disclosure of this information would shed little or no light on the performance of the agency's statutory duties. Because the harm to personal privacy is greater than whatever public interest may be served by disclosure, release of the information would constitute a clearly unwarranted invasion of the privacy of these individuals and we are withholding it under Exemption 6.

We reasonably foresee that disclosure would harm an interest protected by one or more of the nine exemptions to the FOIA's general rule of disclosure.

In addition to me, the official responsible for this partial denial is:

Brigette J. Beaton, Attorney-Advisor  
Office of the Regional Solicitor  
U.S. Department of the Interior  
75 Ted Turner Drive, S.W., Suite 304  
Atlanta, GA 30303

You also may seek dispute resolution services from our FOIA Public Liaison, Cathy Willis, Chief Branch of FOIA, Records, and Privacy, at (720) 425-5173.

### **Appeal Rights**

You may appeal this partial denial under 43 C.F.R. § 2.57 by writing to:

Freedom of Information Act Appeals Officer  
Department of the Interior  
Office of the Solicitor  
1849 C Street, NW, Mail Stop 6556  
Washington, D.C. 20240  
Email: FOIA.Appeals@sol.doi.gov

The FOIA Appeals Officer must receive your FOIA appeal no later than 90 workdays from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5:00 p.m. E.T., Monday through Friday, will be deemed received on the next workday. You must include with your appeal copies of all correspondence between you and the U.S. Fish and Wildlife Service concerning your FOIA request, including a copy of your original FOIA request and this denial letter. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. The appeal should be marked, both on the envelope and the face of the letter, with the legend, "FREEDOM OF INFORMATION APPEAL." Your letter should include in as much detail as possible any reason(s) why you believe the Service's response is in error.

## Mediation Services

Also, as part of the 2007 OPEN Government Act FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and federal agencies as a nonexclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation.

You may contact OGIS via regular mail at:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road - OGIS  
College Park, MD 20740-6001

You may also contact OGIS in the following ways:

E-mail:            [ogis@nara.gov](mailto:ogis@nara.gov)  
Web:              <https://ogis.archives.gov>  
Phone:            (202) 741-5770  
Fax:              (202) 741-5769  
Toll-free:          1-877-684-6448

## Conclusion

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you have any questions, please contact me at (404) 679-4104 or [foiar4@fws.gov](mailto:foiar4@fws.gov). Thank you for contacting the U.S. Fish and Wildlife Service.

Sincerely,

8/6/2019

X Tiffany McClurkin

Tiffany McClurkin  
Region 4 FOIA Coordinator  
Signed by: TIFFANY MCCLURKIN

Enclosure